

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**Civil No. 1:05cv00195-LG-RHW**

**LEE M. JOHNSON,  
AMWEST SURETY INSURANCE CO.,  
HERBERT W. GENTRY,  
CHARLOTTE MILLER HARRIS,  
HOWELL & ROMAINES, LLP,  
LARRY C. SMITH,  
ROBERTSDALE LIVESTOCK AUCTION,  
STATE OF MISSISSIPPI,  
TRUSTMARK NATIONAL BANK,  
GARY BEECH, AND PEARL RIVER  
COUNTY TAX COLLECTOR,**

**Defendants.**

**FINAL JUDGMENT**

In consideration of the Motion of the United States for Default and Summary Judgment; the responses filed thereto; the defaults entered against the defendants Lee M. Johnson, Herbert Gentry, Charlotte Miller Harris, Amwest Surety Insurance Co., Trustmark National Bank and Howell & Romaines, LLP; and the evidence submitted in support of the Motion, this Court, having been informed that all parties are in agreement, hereby grants the motion.

**IT IS THEREFORE ORDERED AND ADJUDGED that:**

The defendant Lee M. Johnson, pursuant to Title 26, United States Code, section 7402, is indebted to the United States for his outstanding 1994 and 1995 federal income liabilities in the total amount of \$519,597.48, including interest and statutory additions accrued through July 31, 2006, plus further interest and statutory additions thereafter as provided by law.

Johnson has a one-third undivided interest in the surface rights of a certain real property, in the approximate amount of 39.8 acres, located in Pearl River County, Mississippi, and which is more specifically described as follows:

Commence at a point where the West section line of Section 15, Township 3 South, Range 15 West, intersects the centerline of paved road, being the approximate location of the southwest corner of Section 15, and also being the point of beginning; thence run North 89 degrees 50 minutes East along centerline of paved road 695.7 feet to centerline of graded road; thence run along centerline of said road North 3 degrees 50 minutes West for 111.3 feet; thence run North 25 degrees 40 minutes East for 49.6 feet; thence run North 47 degrees 51 minutes East 243.6 feet; thence run North 35 degrees 35 minutes East 104.6 feet, thence run North 26 degrees 31 minutes East 134.4 feet; thence run North 18 degrees 58 minutes east 239.5 feet; thence run North 4 degrees 25 minutes West 143.3 feet, thence run North 0 degrees 25 minutes West 252.2 feet; thence run North 5 degrees 33 minutes East 313.4 feet; thence run North 9 degrees 43 minutes East 300 feet; thence run West 1161.7 feet; thence run South 1760 feet to the point of beginning; containing 40.8 acres, more or less, and being situated in the W ½ the S/W ¼ of Section 15, Township 3 South, Range 15 West, Pearl River County, Mississippi.

LESS AND EXCEPT an easement described as 25 feet on the West side of a centerline being the East boundary line of the above described property.

AND LESS AND EXCEPT Commence at a point where the West section line of Section 15, Township 3 South, Range 15 West intersects the center line of paved road, being the approximate location of the southwest corner of Section 15; thence run North 89 degrees 50 minutes East along center line of road 670.7 feet to the point of beginning; thence run North 3 degrees 50 minutes West 111.3 feet; thence North 25 degrees 40 minutes East 49.6 feet; thence North 47 degrees 51 minutes East 243.6 feet; thence North 35 degrees 35 minutes East 104.6 feet; thence North 26 degrees 31 minutes East 134.4 feet; thence North 18 degrees 58 minutes East 239.5 feet; thence North 4 degrees 25

minutes West 143.3 feet; thence North 0 degrees 25 minutes West 252.2 feet; thence North 5 degrees 33 minutes East 313.4 feet; thence North 9 degrees 43 minutes East 300 feet; thence East 25 feet to the center line of road; thence along center line South 9 degrees 43 minutes West 300 feet; thence South 5 degrees 33 minutes West 313.4 feet; thence South 0 degrees 25 minutes East 252.2 feet; thence South 4 degrees 25 minutes East 143.3 feet; thence South 18 degrees 58 minutes West 239.5 feet; thence South 26 degrees 31 minutes West 134.4 feet; thence South 35 degrees 35 minutes West 104.6 feet; thence South 47 degrees 51 minutes West 243.6 feet; thence South 25 degrees 40 minutes West 49.6 feet; thence South 3 degrees 50 minutes East 111.3 feet; thence South 89 degrees 50 minutes West 25 feet to the point of beginning, containing one acre, more or less, and being situated in the W ½ of the SW ¼ of Section 15, Township 3 South, Range 15 West, Pearl River County, Mississippi.

Johnson's interest in the property at issue is hereby foreclosed so that it may be sold to satisfy, or partially satisfy, his outstanding debts in the order of priority commanded by law, as set forth below. The interests of all other parties in the property at issue also are foreclosed.<sup>1</sup> Even though Johnson holds a one-third interest in the property, the surface rights to the entire parcel shall be sold, free and clear of all encumbrances, with one-third of the proceeds to be applied toward Johnson's outstanding debts and the remaining proceeds to be paid proportionately to Johnson's co-owners, or other parties as their interests appear.

The claims against Johnson attach to his one-third interest in the property at issue in the following order:

1. Pearl River County Tax Collector for delinquent 2004 property taxes on the 39.8 acre portion of real property at issue.

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<sup>1</sup> The defendants Herbert Gentry, Charlotte Miller Harris, Amwest Surety Insurance Co., Trustmark National Bank and Howell & Romaines, LLP, have not appeared in this action, and, accordingly, the Clerk has entered defaults against them. Even though the relief sought against those defendants is not for a sum certain, default judgment foreclosing and ranking their interests in the property at issue is supported by the documentary evidence submitted by the United States in support of its Motion. Because the Court already is in possession of the evidence to support the requested relief against those defendants, a hearing for the presentation of that evidence is not necessary.

2. The United States, on behalf of the Internal Revenue Service, for its tax lien regarding Johnson's outstanding 1994 federal income tax liability, notice of which lien was filed on October 3, 1996.
3. The United States, on behalf of the United States Department of Agriculture, for its judgment lien against Johnson, filed on March 14, 1997.
4. The United States, on behalf of the Internal Revenue Service, for its tax lien regarding Johnson's outstanding 1995 federal income tax liability, notice of which lien was filed on September 23, 1997.
5. The State of Mississippi, on behalf of the Mississippi State Tax Commission, for its judgment lien against Johnson filed on December 20, 1999.
6. Robertsedale Livestock Auction, Inc., for its judgment lien against Johnson filed on February 17, 2000.
7. Amwest Surety Insurance Co., for its judgment lien against Johnson filed on June 20, 2000.
8. Howell & Romaines, LLP, for its judgment lien against Johnson filed on September 12, 2002.

After the property at issue is sold, the liens shall be transferred to one-third of the proceeds, representing Johnson's one-third interest in the property, and attach to those proceeds in the above order, except that the costs of sale shall be paid out of Johnson's portion of the proceeds before the claims of the above-named creditors are paid.

The plaintiff is directed to submit a proposed order of sale to govern the sale of the property at issue in accordance with this Judgment.

**SO ORDERED AND ADJUDGED** this the 23<sup>th</sup> day of November, 2006.

*s/ Louis Guirola, Jr.*  
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LOUIS GUIROLA, JR.  
UNITED STATES DISTRICT JUDGE

Approved as to form and content:

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